

Senate Study Bill 3122

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
INSPECTIONS AND APPEALS BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to indigent defense claims and the reimbursement
2 of costs in juvenile cases paid by a county.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 5342DP 81
5 jm/je/5

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1 1 Section 1. Section 13B.1, Code 2005, is amended by adding
1 2 the following new subsection:
1 3 NEW SUBSECTION. 1A. "Claimant" means an attorney or other
1 4 person seeking reimbursement of costs or fees payable from the
1 5 appropriations under section 815.11.
1 6 Sec. 2. Section 13B.4, subsection 4, paragraph c,
1 7 subparagraphs (3), (4), and (5), Code Supplement 2005, are
1 8 amended to read as follows:
1 9 (3) Request additional information or return the claim to
1 10 the ~~attorney claimant~~, if the claim is incomplete.
1 11 (4) If any portion of the claim is excessive, notify the
1 12 ~~attorney claimant~~ that the claim is excessive and will be
1 13 reduced to an amount which is not excessive, and reduce and
1 14 approve the balance of the claim.
1 15 (5) If any portion of the claim is not payable within the
1 16 scope of appointment of the ~~attorney claimant~~, notify the
1 17 ~~attorney claimant~~ that a portion of the claim is not within
1 18 the scope of appointment and is not payable, deny those
1 19 portions of the claim that are not payable, and approve the
1 20 balance of the claim.
1 21 Sec. 3. Section 13B.4, subsection 4, paragraph d, Code
1 22 Supplement 2005, is amended to read as follows:
1 23 d. Notwithstanding chapter 17A, the ~~attorney claimant~~ may
1 24 seek review of any action or intended action denying or
1 25 reducing any claim by filing a motion with the court with
1 26 jurisdiction over the original appointment for review.
1 27 (1) The motion must be filed within twenty days of any
1 28 action taken by the state public defender.
1 29 (2) The motion shall be set for hearing by the court and
1 30 the state public defender shall be provided with at least ten
1 31 days' notice of the hearing. The state public defender shall
1 32 not be required to file a resistance to the motion filed under
1 33 this paragraph "d".
1 34 (3) The state public defender or the ~~attorney claimant~~ may
1 35 participate by telephone. If the state public defender
2 1 participates by telephone, the state public defender shall be
2 2 responsible for initiating and paying for all telephone
2 3 charges.
2 4 (4) The filing of a motion shall not delay the payment of
2 5 the amount approved by the state public defender.
2 6 (5) If a claim or portion of the claim is denied, the
2 7 action of the state public defender shall be affirmed unless
2 8 the action conflicts with a statute or an administrative rule
2 9 ~~or the law~~.
2 10 (6) If the claim is reduced for being excessive, the
2 11 ~~attorney claimant~~ shall have the burden to establish by a
2 12 preponderance of the evidence that the amount of compensation
2 13 and expenses is reasonable and necessary ~~to competently~~
2 14 ~~represent the client~~.
2 15 (7) The decision of the court following a hearing on the
2 16 motion is a final judgment appealable by the state public
2 17 defender or the claimant.

2 18 (7) (8) Any court order entered after the state public
2 19 defender has taken action on a claim, which affects that
2 20 claim, without first notifying the state public defender and
2 21 permitting the state public defender an opportunity to be
2 22 heard, is void.

2 23 Sec. 4. Section 13B.4, subsections 6 and 7, Code
2 24 Supplement 2005, are amended to read as follows:

2 25 6. The state public defender is authorized to contract
2 26 with county attorneys to provide collection services related
2 27 to court-ordered indigent defense restitution ~~of court-~~
2 28 ~~appointed attorney fees or the expense of a public defender.~~

2 29 7. The state public defender shall not revise the
2 30 allocations to the office of the state public defender and the
2 31 allocations ~~for fees of court-appointed attorneys~~ for indigent
2 32 ~~defense of~~ adults and juveniles, unless prior notice of the
2 33 revisions is given ~~prior to their effective date~~ to the
2 34 legislative services agency, the cochairpersons and ranking
2 35 members of the joint appropriations subcommittee on the
3 1 justice system, and the cochairpersons and ranking members of
3 2 the house and senate committees on appropriations.

3 3 Sec. 5. Section 232.141, subsection 2, Code 2005, is
3 4 amended to read as follows:

3 5 2. All of the following juvenile court expenses are a
3 6 charge upon the county in which the proceedings are held, to
3 7 the extent provided in subsection 3:

3 8 a. ~~The fees and mileage of witnesses and the expenses of~~
3 9 ~~officers serving notices and subpoenas which are Juvenile~~
3 10 ~~court expenses~~ incurred by an attorney appointed by the court
3 11 to serve as counsel to any party or to serve as a guardian ad
3 12 litem for any child, including fees and expenses for foreign
3 13 language interpreters, costs of depositions and transcripts,
3 14 fees and mileage of witnesses, and the expenses of officers
3 15 serving notices and subpoenas.

3 16 b. Reasonable compensation for an attorney appointed by
3 17 the court to serve as counsel to any party or as guardian ad
3 18 litem for any child in juvenile court.

3 19 Sec. 6. Section 232.141, subsection 3, paragraphs c and d,
3 20 Code 2005, are amended to read as follows:

3 21 c. ~~Costs incurred for compensation of an attorney~~
3 22 ~~appointed by the court to serve as counsel to any party or as~~
3 23 ~~guardian ad litem for any child shall be paid in accordance~~
3 24 ~~with sections 13B.4 and 815.7 The county, on an annual basis,~~
3 25 ~~shall pay to the indigent defense fund created under section~~
3 26 ~~815.11 the amount of the county's base cost as determined in~~
3 27 ~~accordance with this subsection.~~

3 28 d. Costs incurred under subsection 2 shall be paid by the
3 29 state from the appropriations to the indigent defense fund
3 30 under section 815.11 in accordance with this chapter, chapter
3 31 815, and the rules adopted by the state public defender. The
3 32 county shall be required to reimburse the indigent defense
3 33 fund for costs incurred by the state up to the county's base
3 34 in this subsection.

3 35 Sec. 7. Section 815.11, Code Supplement 2005, is amended
4 1 to read as follows:

4 2 815.11 APPROPRIATIONS FOR INDIGENT DEFENSE == FUND
4 3 CREATED.

4 4 Costs incurred under chapter 229A, 665, 822, or 908, or
4 5 section 232.141, subsection 3, paragraph ~~"c"~~ "d", or section
4 6 598.23A, 600A.6B, 814.9, 814.10, 814.11, 815.4, 815.7, or
4 7 815.10 on behalf of an indigent shall be paid from ~~funds~~
4 8 ~~moneys~~ appropriated by the general assembly to the office of
4 9 the state public defender in the department of inspections and
4 10 appeals and deposited in an account to be known as the
4 11 indigent defense fund. Costs incurred representing an
4 12 indigent defendant in a contempt action, or representing an
4 13 indigent juvenile in a juvenile court proceeding under chapter
4 14 600, are also payable from ~~these funds the fund.~~ However,
4 15 costs incurred in any administrative proceeding or in any
4 16 other proceeding under chapter 598, 600, 600A, 633, 814, 815,
4 17 or 915 or other provisions of the Code or administrative rules
4 18 are not payable from these fund the fund.

4 19 EXPLANATION

4 20 This bill relates to indigent defense claims and
4 21 reimbursement of costs in juvenile cases paid by a county.

4 22 The bill defines the term "claimant" to mean an attorney or
4 23 other person seeking reimbursement of costs or fees payable
4 24 from the appropriations made to the indigent defense fund
4 25 under Code section 815.11.

4 26 In a claim dispute between a claimant and the state public
4 27 defender, the bill makes the decision of the court appealable
4 28 by either the claimant or state public defender.

4 29 The bill provides that the state public defender shall not
4 30 revise the allocations to the office of the state public
4 31 defender and the allocations for the defense of indigent
4 32 adults or juveniles unless prior notice is properly given.
4 33 Current law provides that the state public defender shall not
4 34 revise any allocation prior to the effective date of any
4 35 revision and only if proper notice of the revision is given.
5 1 Under current law the county, in juvenile cases, directly
5 2 pays the interpreters and the costs of depositions and
5 3 transcripts, and then seeks reimbursement from the state
5 4 indigent defense fund. In adult criminal cases, the state
5 5 directly pays for interpreters and the costs of depositions
5 6 and transcripts out of the indigent defense fund. The bill
5 7 provides that the state, in juvenile cases, will directly pay
5 8 the interpreters and the costs of depositions and transcripts
5 9 out of the indigent defense fund.
5 10 Under current law and the bill, the county, in juvenile
5 11 cases, is still responsible for reimbursing the state up to
5 12 the county's base as provided in Code section 232.141,
5 13 subsection 3.
5 14 LSB 5342DP 81
5 15 jm:rj/je/5